

WILLMAR CITY COUNCIL PROCEEDINGS
COUNCIL CHAMBERS
WILLMAR MUNICIPAL UTILITIES BUILDING
WILLMAR, MINNESOTA

December 15, 2008
7:00 p.m.

The regular meeting of the Willmar City Council was called to order by the Honorable Mayor Lester Heitke. Members present on a roll call were Mayor Heitke, Council Members Doug Reese, Ron Christianson, Bruce DeBlieck, Denis Anderson, Cindy Swenson, Rick Fagerlie, Jim Dokken, and Steven Gardner; Present 9, Absent 0.

Also present were City Administrator Michael Schmit, City Attorney Richard Ronning, Police Captain Dave Wyfells, Fire Chief Marv Calvin, Public Works Director Mel Odens, Finance Director Steven Okins, Planning and Development Services Director Bruce Peterson, Community Education and Recreation Director Steve Brisendine, and City Clerk Kevin Halliday.

Additions included an announcement of a Council closed session and presentation of plaques to Council Members Gardner and Swenson.

Council Member Reese offered a motion adopting the Consent Agenda which included the following: City Council Minutes of December 1, Council Work Session Minutes of December 10, Municipal Utilities Commission Minutes of December 8, Planning Commission Minutes of November 12, Building Inspection Report for December 10, Building Inspection Report of November, Zoning Appeals Board Minutes of December 8, 2008; and Mayoral reappointment of Vera Novak, Housing and Redevelopment Authority Board. Council Member Anderson seconded the motion, which carried.

Mayor Heitke acknowledged that no one had signed up to address the City Council during its scheduled Open Forum.

Ms. Michelle Hull appeared before the Mayor and Council to present Willmar Junior Miss Jasper Sweazey and runner-up Bailey Black. The young ladies shared their school involvements and benefits of the Junior Miss Program. Mayor Heitke congratulated for them for their achievements. This matter was for information only

Mayor Heitke recognized David Turch and Kodi Hill-Davis, from David Turch and Associates. Mr. Turch and Ms. Hill-Davis discussed with the Mayor and Council projects and priorities to help focus their efforts for the 2009 congressional activities which will begin in early January. This matter was for information only.

The Finance Committee Report for December 8, 2008, was presented to the Mayor and Council by Council Member Anderson. There were four items for Council consideration.

Item No. 1 Pursuant to an October 24, 2008, liquor compliance check conducted by the Willmar Police Department, Staff informed the Committee that one retail liquor establishment, the Double D Club, violated Municipal Code Sec. 3-2 Selling or Giving Intoxicating Liquor to Persons to Whom Sales are Prohibited. City Clerk Halliday explained this was Double D Club's first violation and owner Duane Duenow was present to discuss measures being taken to avoid future violations, including enrolling his employees in the Police Department's Training Program. It was noted the Double D Club does not have a manager residing in Kandiyohi County registered with the City. Further, the second half payment of their liquor license in the amount of \$2,000 remains unpaid. An update on the status of these issues will be provided at the December 15, 2008, Council meeting. This matter was for information only.

Item No. 2 Staff informed the Committee that the Minnesota Pollution Control Agency has reviewed the Total Maximum Daily Load Grant Application and has determined that the City's total estimated TMDL fundable costs are \$6,480,000. Pursuant to the Minnesota PCA's determination, the Public Facilities Authority has awarded the City of Willmar a TMDL Grant in the amount of \$500,000. An

application for additional grant funds will be submitted to the Minnesota PFA for the next funding cycle.

The Committee was recommending the Council introduce a Resolution authorizing the Mayor and City Clerk to execute the PFA Grant Agreement in the amount of \$500,000. Resolution No. 1 was introduced by Council Member Anderson, seconded by Council Member Gardner, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 1

BE IT RESOLVED by the City Council of the City of Willmar to accept grant funds from the Minnesota Public Facilities Authority Total Maximum Daily Load Grant in the amount of \$500,000. The funds will be used towards the Waste Water Treatment Plant Project.

BE IT FURTHER RESOLVED that the Mayor and City Clerk be authorized to sign the Grant on behalf of the City of Willmar.

Dated this 15th day of December, 2008.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 2 The Committee was informed by Staff that the Waste Treatment Plant Budget needs to be amended as follows: 1) the electrical redundancy equipment is part of the WTP Project C Budget which would increase Other Charges and decrease Other Services by \$238,430; 2) the manhole size changes are part of the WTP Project D3 Budget which would increase Maintenance of Other Improvements and decrease Other Services by \$15,882; and 3) the recent TMDL Grant is part of the WTP Project C Budget which would increase Other Grants and decrease the State PFA Loan by \$500,000.

The Committee was recommending the Council introduce a Resolution authorizing the budget amendment for the electrical redundancy equipment as presented. Resolution No. 2 was introduced by Council Member Anderson, seconded by Council Member Gardner, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 2

ESTIMATED TOTAL COST \$86,218,712

Other Services:		Receivables:	
Mtc. Of Other Improvements	\$69,512,905	Federal-STAG Grant	\$ 477,900
Other Services	<u>3,267,905</u>	State-TMDL Grant	500,000
Total:	\$72,780,243	City	500,812
		Other-PFA	<u>84,740,000</u>
Other Charges:		Total:	\$86,218,712
Professional Services	\$11,725,642		
Other Charges	<u>1,212,827</u>	Attest:	
Total:	\$13,438,469	D-3	\$ 7,115,685
		D-4	6,793,017
		D-5	1,399,106
		D-5c	207,844
		D-6	2,287,950
		Planning	\$ 1,140,000
		Design	4,595,788
		Land & Legal	1,130,000
		Construction Eng.	5,398,251

Dated this 15th day of December, 2008

Project A	155,505
Project B	3,051,915
Project C	51,828,000
Project D	1,115,651
Project D 3-6	17,803,602
Project B Alt.	0
Total	<u>\$86,218,712</u>

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 3 Staff informed the Committee that Local Government Aid payments scheduled to be received in late December have not been affected by recent State budget issues. Mayor Heitke discussed preliminary options the State is exploring to help reduce their deficit but more time is needed to bring a resolution to this problem. Possible LGA cuts and alternative strategies will continue to be discussed at the December 22, 2008, Finance Committee meeting. This matter was for information only.

Item No. 4 The Committee reviewed the following reports: October Rice Trust; June 30, Willmar Foundation; November 30, Cash/Investment Portfolio; November 30, Local Option Sales Tax, November 30; WRAC-8, and CVB November 30, 2008. This matter was for information only.

The Finance Committee Report for December 8, 2008, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Anderson, seconded by Council Member Gardner, and carried.

The Public Works/Safety Committee Report for December 9, 2008, was presented to the Mayor and Council by Council Member Reese. There were four items for Council consideration.

Item No. 1 Chairman Reese inquired as to the status of the old airport terminal and FBO buildings. Mr. Reese explained that there are individuals interested in the buildings as a possible permanent location for a military display. Staff explained that the City was still in the process of securing land releases at the old airport location. It was noted that the City is holding a purchase agreement from an adjoining business pending the outcome of the discussions with the State Historical and Preservation Office and FAA. The City should know within the next few months regarding the availability of these buildings and any conservation easements that might restrict the sale of the land and buildings or their ultimate use. This matter was for information only.

Item No. 2 The Committee considered Change Order No. 1 to Project No. 0805, which is the construction of the Westwind Estates development by Kuechle Underground, Inc. The contractor is requesting changes to the completion dates citing extremely wet soil conditions. They are requesting the completion date for the aggregate base and curb and gutter be changed from October 30, 2008, to June 12, 2009 and the non-wearing course from October 30, 2008 to July 2, 2009. The final completion date for the entire project would change from June 15, 2009 to September 30, 2009.

Also included in the change order is additional grading near yards where elevations changed since the original survey. The amount of the change order is \$13,124.00. It was noted the construction contract is part of a development agreement and that the developer is responsible for all costs.

The Committee was recommending the Council approve Change Order No. 1 to Project No. 0805 and authorize the City Administrator to execute it on behalf of the City. Resolution No. 3 was introduced by Council Member Reese, seconded by Council Member DeBlieck, read by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 1 – Council Member Christianson voted “No.”

RESOLUTION NO. 3

WHEREAS, a contract has been awarded to Kuechle Underground, Inc. of Kimball, Minnesota, on August 12, 2008 in the amount of \$650,950.20 for Project No. 0805 (Westwind Estates 3rd Addition) under the direction of I & S Group as engineer; and

WHEREAS, it is desired to change completion dates and add additional work to the above contracted amount due.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar that:

1. Additional work is herewith authorized to be added to the above contract in the amount of \$13,124.99, the completion date for the aggregate base and curb and gutter is changed from October 30, 2008 to June 12, 2009 and for the non-wearing course from October 30, 2008 to July 2, 2009. The final completion date for the entire project would change from June 15, 2009 to September 30, 2009. These additions and changes are identified as Change Order No. 1.

2. Funding for the additional work is from the project budget.

Dated this 15th day of December, 2008.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

The Committee was informed by Staff that it was mutually agreed by representatives of Mn/DOT, Kandiyohi County and City of Willmar to recommend the extension of the contract completion date for the study of the intersection of Business 71/CR 24/TH 294 from January 15, to March 15, 2009. A formal presentation by the consulting firm, CH2M Hill Inc., of the final recommendation is planned for January 15, 2009, at the Council Chambers.

The Committee was recommending the Council amend the agreement by extending the final completion as requested. Resolution No. 4 was introduced by Council Member Reese, seconded by Council Member Christianson, read by Mayor Heitke, and approved on a roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 4

BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that City Administrator of the City of Willmar is hereby authorized to revise Agreement No. 93031 between the City of Willmar and the State of Minnesota. The agreement revision extends the completion date of the contract to March 15, 2009.

Dated this 15th day of December, 2008.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 4 Rhonda Rae of Donohue and Associates briefed the Committee on November activities related to the relocation of the Wastewater Treatment Plant. Program management activities that took place included meeting with Staff to discuss funding and finance issues and submittal of pay requests 5 and 6 to the Public Facilities Authority for the Clean Water Revolving Fund load and Wastewater Improvement Fund; Donohue met with staff and Springsted regarding the response to JOTS on the proposed sewer utility rate structure; work continued with legal counsel on property acquisition;

commissioner hearings for the property from the new plant going east toward 15th Street SW have been completed; and these properties have either settled or are into condemnation.

In relation to construction, Donohue provided management on two of the conveyance projects during November. Progress in pipe installation was made on Project Nos. 0814-D4 and 0815-D5. The contractor for Project 0813-D3 does not plan any pipe installation in City streets until the Spring of 2009.

The construction of the plant facility included mass excavation for major structures. The first of six base slab pours for Oxidation Ditch Structure 242 have been completed. Some under-slab piping and site utility piping were also installed. This matter was for information only.

The Public Works/Safety Committee Report for December 9, 2008, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Reese, seconded by Council Member Fagerlie, and carried.

The Community Development Committee Report for December 11, 2008, was presented to the Mayor and Council by Council Member DeBlieck. There were seven items for Council consideration.

Item No. 1 Dorothy Gaffaney, Willmar HRA, was present to discuss the Small Cities Development Program for 2009. An application is proposed to be submitted for owner-occupied residential rehabilitation in Willmar and Pennock, and rental and commercial rehabilitation in downtown Willmar. Final applications are due January 15, 2009.

Ms. Gaffaney requested that the Committee act to set a public hearing for the January 12, 2009 Council meeting. She stated that the grants will be announced in March and work could begin in June or July. The Committee discussed individual grant limits and income limits for qualified property owners.

The Committee was recommending the City Council set a public hearing on the 2009 Small Cities Development Program for January 12, 2009. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Christianson seconding the motion, which carried.

Item No. 2 The Committee reviewed a packet of materials from the Willmar Postmaster regarding dog bites/prevention as well as information regarding the Postal Service position on animal threats. The material was given to Staff for distribution as the Postmaster was unable to attend the Committee meeting. The Committee requested that the Postmaster be invited to the Council meeting or to a future Committee meeting. This matter was for information only.

Item No. 3 The Committee reviewed proposed draft lease between the City of Willmar and Bergh's Fabricating, Inc. Staff was recommending that the lease be approved by the Council with the following changes: the lease be on a month-to-month basis at a rate of \$350.00/month, and the lease be subject to cancellation upon 60-day notice by either party.

The Committee was recommending the City Council approve the lease with the change in terms as noted. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Dokken seconding the motion, which carried.

Item No. 4 The Committee considered a proposal by a property owner to deed property in the Sunrise Park area to the City. The property is located at the north end of the park which is located in southeast Pheasant Run. The property is approximately 1/3 acre in size and is the remnant parcel remaining as the balance of the area was sold for development. The Committee discussed at length the issues of usability and maintenance.

The Committee was recommending the Council refer the matter to the Planning Commission and move forward with the transfer of title. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Dokken seconding the motion, which

carried.

Item No. 5 The Committee discussed a proposal submitted by Pfeffer Company to sell property on the west side of new County Road 5, south of Highway 12, to the City for industrial development. The pros and cons of ownership were discussed at length. It was the consensus of the Committee that no action be taken as there is no identified need for additional industrial land, nor are funds available for the acquisition of this property. This matter was for information only.

Item No. 6 Staff presented to the Committee draft ordinance revisions relating to exterior storage and off-street parking. These revisions are consistent with recommendations from the Housing Task Force. Staff indicated that it hoped to come back to the Committee in January with the balance of the draft revisions. This matter was for information only.

Item No. 7 Staff presented updates on a variety of ongoing and proposed projects. This matter was for information only.

The Community Development Committee Report for December 11, 2008, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member DeBlieck, seconded by Council Member Dokken, and carried.

Mayor Heitke presented to the Council for consideration a list of individuals to be appointed to the Storm Water Task Force. The Council discussed setting a timeline to report back to the Council with an interim report by the end of April and a final report by the end of June, 2009. Council Member Gardner offered a motion to appoint the Storm Water Task Force as presented: Bruce Johns, Marv Gieseke, Mike Haase, Laura Becker, Joe Ridler, Karen Thibault, Paul Danielson, Terry Brunson, Rolf Standfuss, Vera Novak, Douglas Hanson and David Schmidt. Council Member DeBlieck seconded the motion, which carried.

The Mayor and Council discussed the appointment of individuals to the Charter Commission. Following discussion, Council Member Reese moved to nominate Bob Bonawitz to the Charter Commission with Council Member Dokken seconding the motion, which carried. Council Member Gardner moved to nominate Shawn Mueske to the Charter Commission with Council Member Reese seconding the motion, which carried. Council Member Swenson moved to nominate Shelly Cash to the Charter Commission with Council Member Anderson seconding the motion, which carried. Council Member Christianson moved to nominate John Sullivan to the Charter Commission with Council Member Dokken seconding the motion, which carried. Council Member Fagerlie moved to nominate Ron Andreen to the Charter Commission with Council Member Christianson seconding the motion, which carried. Council Member Dokken moved to nominate John Tradup to the Charter Commission with Council Member Fagerlie seconding the motion, which carried. Council Member DeBlieck moved to nominate Audrey Nelson to the Charter Commission with Council Member Gardner seconding the motion, which carried. Council Member Anderson moved to nominate Eilene Huberty to the Charter Commission with Council Member Dokken seconding the motion, which carried. Council Member Reese moved to nominate Mike Nitchals to the Charter Commission with Council Member Anderson seconding the motion, which carried. Mayor Heitke identified the following as possible alternates: Joe Thompson, Ken Warner and Ken Warzecha. Council Member DeBlieck moved to approve the alternates with Council Member Gardner seconding the motion, which carried on a roll call vote of Ayes 7, Noes 1 – Council Member Christianson voted “No.”

City Clerk Halliday informed the Mayor and Council that the following establishments are requesting renewal of current Sunday Liquor Licenses: On-sale – Applebee's, El Tapatio Mexican Restaurant, Green Mill/Holiday Inn, Grizzly's Grill N' Saloon, Kandi Entertainment Center, New Fireside the Oakes at Eagle Creek, and Double D Club pending late application and required payments; and Club On-sale – American Legion Post 167, Fraternal Order of Eagles, VFW Post 1639, and Willmar Elks Lodge 952. Council Member Anderson moved to approve the licenses as presented with Council Member Gardner seconding the motion, which carried on a roll call vote of Ayes 8, Noes 0.

City Clerk Halliday informed the Mayor and Council that the Willmar Curling Club will be holding a special event at the Civic Center on January 9 and 10, 2009, and had asked the On-sale Liquor License holder "The Oaks on Eagle Creek" to apply for the Civic Center Arena Special Event Permit. Following discussion, Council Member Gardner offered a motion to deny the Special Event Permit with Council Member Reese seconding the motion, which carried.

The Mayor and Council discussed the January Council meetings and scheduled the reorganization meeting on January 12, 2009.

Announcements for Council Committee meeting dates were as follows: Finance, December 22; Labor Relations, December 23; Public Works/Safety, December 30, 2008; and Community Development, January 15, 2009.

Mayor Heitke discussed the National League of Cities Award honoring the City of Willmar for 26 years of membership and dedicated service in shaping and advocating national municipal policy.

Mayor Heitke presented plaques to Council Member Steve Gardner and Cindy Swenson for their years of service on the City Council.

At 9:07 p.m. Council Member Gardner moved to recess the meeting for privileged attorney/client discussions with Council Member DeBlieck seconded the motion, which carried. The meeting reconvened at 9:38 p.m. upon motion by Council Member Gardner, seconded by Council Member Fagerlie, and carried.

City Administrator Schmit and City Attorney Ronning explained that during the closed session the Council reviewed a tentative settlement agreement with Warren and Jan Jorgenson. Terms of the tentative settlement include an \$115,000.00 cash payment to the Plaintiffs and that the Plaintiffs would convey their property to the City of Willmar. The League of Minnesota Cities Insurance Trust will be paying the sum of \$60,000.00 and the City of Willmar will be paying the sum of \$55,000.00 towards the settlement. Council Anderson moved to recommend that the Council approved of the mediated settlement with Council Member Gardner seconding the motion, which carried.

There being no further business to come before the Council, the meeting adjourned at 9:45 p.m. upon motion by Council Member DeBlieck, seconded by Council Member Reese, and carried.

Attest:

MAYOR

SECRETARY TO THE COUNCIL